



7.

Drug Free Workplace Policy and Procedures
KTCF-09-10

**RESOLUTION OF THE
KAYENTA TOWNSHIP COMMISSION**

**Adopting and Approving the Drug Free Workplace Policy and Procedures for the Kayenta
Township Commission and Administration**

WHEREAS:

1. The Kayenta Township Commission ("KTC") has the general authority and responsibility to govern for the welfare of the Kayenta Township ("Township") and its residents, including the enactment of such ordinances, rules and regulations as it deems in the best interest of the Township; and
2. The Township is empowered to adopt rules and regulations as may be necessary to effectively and efficiently operate the Township operations and to be in compliance with the Navajo Nation and Federal Laws; and
3. The Township receives funding from federal government and by law, Township is required through the Drug Free Workplace Act of 1988 to maintain a drug free workplace; and
4. The Township currently does not have a Drug Free Workplace Policy and Procedures (Policy) within existing Personnel Policy and Procedures or an Employee Handbook as appropriate to have employees abide by and use as guidance in following all practices and protocols; and
5. The Township Administration reviewed and discussed the Policy and considered it to be in the best interest of the Township.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Kayenta Township Commission hereby adopts and approves the Drug Free Workplace Policy and Procedures, attached hereto as Exhibit "A" and incorporated herein by reference, to be effective immediately.
2. The Kayenta Township Commission hereby authorizes the Town Manager and Management to modify and amend the Policy from time to time to be in compliant with all applicable laws relevant to the Township, Navajo Nation and Federal Laws.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Kayenta Township Commission at a duly called special meeting in Kayenta, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, and 0 abstained, this 19th day of February, 2010.

Motion: Commissioner Greyeyes
Second: Commissioner Todecheene

Kayenta Township Commission


Helen Bonnaha, Chairperson

Drug Free Workplace Policy – Kayenta Township

Drug Free Workplace Policy of Kayenta Township

A. Introduction

1. This will serve as a statement of policy and as an official notice to all employees of the Kayenta Township regarding this maintenance of a drug-free workplace.
2. Each employee of the Township shall be provided with a copy of this policy.
3. The Kayenta Township Drug-Free workplace policy makes provisions regarding informing Township employees about:
 - The Dangers of drug abuse in the workplace;
 - The provisions of the Township Drug-Free Workplace Policy;
 - The penalties that will be imposed upon Township employees for drug abuse violations; and
 - The availability of counseling and rehabilitation services.

B. Dangers of Drug Abuse

1. Drug abuse is a pervasive problem in the workforce in the United States, so much so that all agencies and companies that receive funding from the Federal government are required by law, through the Drug Free Workplace Act of 1988, to maintain a drug-free workplace.
2. Drug abuse takes many forms, from the use of hard drugs such as heroin and cocaine, to the misuse of prescription drugs and the use of alcohol.
3. Alcohol is one of the most widely abused drugs in the United States.
4. In order to make Township employees aware of the danger and wide spread occurrence of the drug use, the Township will provide information to its employees on an ongoing basis through literature, films, training, and seminars.

C. The Kayenta Township Drug – Free Workplace Policy

1. It is the goal of the Township to create a drug-free atmosphere in the workplace. The Township pledges to support and uphold the laws, of the Navajo Nation and the Federal Government.
2. The Township is located on land under the governance of the Navajo Nation, where it is unlawful to possess or hold “intoxicating liquors,” (as defined in Title 17 of the Navajo Tribal Code in Subchapter 10, Sections 390 through 395 and Subchapter 12, Sections 410 through 412), on land under the governance of the

Navajo Nation, this policy prohibits the manufacture, distribution, dispensing, sale, possession, storage or use of intoxicating liquors and controlled substances on or in any property owned by the Township.

3. It shall be a condition of employment for any employee of the Kayenta Township that the employee:
 - a. Abide by the terms of this policy; and
 - b. Notify the Town Manager, Director, or his/her designee, of any conviction of themselves for a violation, occurring on or in any property owned by, or on behalf of, Kayenta Township, of laws pertaining to the manufacture, distribution, dispensing, sale, possession, storage or use of intoxicating liquors or controlled substances, within 5 days after such conviction.

4. Covered Substances and Prohibited Actions

The policy restricts certain specified substances and their related paraphernalia from being brought onto the Township premises and/or from being in an employee's possession while he or she is engaging in Township business or activities.

In addition, this policy prohibits all individuals who are impaired by lawful drugs or illegal drugs and/or alcohol from reporting to work, coming into the workplace, remaining on the premises of Kayenta Township, or otherwise engaging in Township business or activities.

a. Covered Substances

The following substances are covered by this policy:

- Controlled and/or illegal drugs or substances which include all forms of narcotics, hallucinogens, depressants, stimulants, stimulants, and other drugs whose use, possession, or transfer is restricted or prohibited by law;
- Drugs prescribed by a physician, dentist, or other person licensed by the state or federal government to prescribe or dispense controlled substances and/or drugs used in accordance with their instructions are not subject to the restriction of this policy.

b. Prohibited Actions

The following activities are prohibited while an employee is on the Township's premises or otherwise engaged in misconduct and subject to disciplinary action, up to and including immediate dismissal or, as a condition of continued employment, may be required to participate in and

successfully complete drug or alcohol abuse counseling or a rehabilitation program as required.

- The manufacture, possession, use, sale, distribution, dispensation, receipt, or transportation of any controlled substance or illegal drug;
- The consumption of alcoholic beverages;
- Being under the influence of alcohol, illegal drugs, or substances in any manner during business hours whether or not consumed on Township premises and whether or not consumed outside of or during working hours; this includes being impaired by lawfully prescribed drugs that have been abused; and
- Performing duties while under the influence of alcohol or controlled and/or illegal substances or drugs regardless of whether the employee is on or off the premises of the Township.

5. Testing of Reasonable Cause/Reasonable Suspicion

If there is reasonable suspicion to believe that an employee may be impaired by drugs and/or alcohol on the job, or if the employee is found with drugs and/or alcohol, testing may be ordered. Reasonable suspicion exists when one's experience and training tends to indicate that a given person is under the influence of alcohol or a controlled substance. Acceptable indicators include, but are not limited to,

- Odor of alcoholic beverage on the breath;
- Slurred or incoherent speech;
- Staggering walk;
- Loss of Physical coordination;
- Bloodshot eyes;
- Inability to successfully complete a field sobriety test;
- Erratic behavior;
- Unexplained or uncharacteristic irritability;
- Excessive tardiness;
- Poor work performance; and
- Excessive unexplained absences from work.

Procedure for testing on Reasonable Cause

Step 1. In the event any employee has reasonable suspicion to believe an employee may be impaired by drugs and/or alcohol while on the job, the employee's supervisor must be notified. The supervisor shall notify the Department Director, or, in his absence, the Town Manager. The supervisor and either the Department Director or, the Town Manager shall together directly observe the employee's behavior and document any irregularities. If a test is ordered, each observer must document the specific indicators observed, within twenty-four hours.

Step 2. If reasonable suspicion exists, the employee shall be asked to execute a written consent for immediate alcohol and/or drug testing. Failure to consent to testing may be grounds for termination if the employee is a regular employee. If the employee is a probationary or temporary employee, failure to consent to testing will be grounds for immediate termination.

Step 3. If reasonable suspicion exists, and consent is given, the employee shall be immediately transported for appropriate testing. Testing may include use of the breath, blood and/or urine testing. The employee shall be transported by his or her immediate supervisor and or department director or Town Manager to the testing location. The analysis of any samples collected will be performed by a laboratory selected by Kayenta Township.

Step 4. Following completion of testing, the employee will be placed on Paid Administrative Leave for Investigations or for Pending Serious Disciplinary Action until the test results are available. The employee will be transported to their home.

Step 5. If the testing discloses that alcohol or drugs did not impair the employee at the time of the test, the employee shall return to work. If the test discloses that the employee was not impaired at the time of the test but does disclose trace amounts of alcohol or drugs, the employee shall be asked to return to work unless the presence of these substances is in violation of an agreed-upon treatment and/or return to work agreement. If the test discloses that alcohol or drugs impaired the employee at the time of test, the employee may be placed on unpaid leave until the Town Manager makes a decision on continued employment.

6. Consequences of a First Positive Test or Violation

- a. Possible Termination. If the results of a drug or alcohol test indicate that the employee was impaired while at work, the employee may be subject to termination.
- b. Participation in a Treatment Program. An employee who is not terminated after a positive test result shall be required to participate in an alcohol or drug treatment program approved by the Town Manager as a condition of continued employment. Any employee who participates in such a program as a condition of continued employment shall be entitled to be paid their regular hourly wage or salary when completing the screening and assessment phase of the program. The employee shall be placed on unpaid leave for the rehabilitation or treatment portion of the program. However, an employee may be permitted to use accrued sick leave or vacation in lieu of unpaid leave during the rehabilitation or treatment. Upon successful completion of an agreed-upon treatment program, the employee shall be permitted to return to his or her position. If the employee fails to successfully complete the agreed-upon treatment program, he or she shall be dismissed.

- c. **Loss of Driving Privileges.** If the results of a drug or alcohol test indicate that the employee was impaired while at work, the employee shall not be permitted to operate any Township vehicle (or operate any personal vehicle on Township business), for a period of three (3) years, subject only to the exception below.

Restoration of Driving Privileges. An employee may be authorized to operate vehicles at the expiration of a one-year period from the date of a positive test if the employee:

- Has not been convicted of any traffic violation since the date of the positive test;
- Has a valid driver's license;
- Has performed satisfactorily in his or her position;
- Has completed a drug use assessment by an agency of the Township choice;
- Has followed each recommendation made as a result of the drug use assessment; and
- Otherwise satisfies the Township of the employee's sobriety and responsibility.

The decision whether to permit the restoration of driving privileges is discretionary on the part of the employer and shall not be grievable.

- d. **Take Home Vehicles.** In no event shall an employee who has had a positive drug or alcohol test be permitted to take a Township vehicle to or from the employee's home until three (3) years have elapsed from the date of the positive test.
- e. **Random Testing.** All KTC employees will submit to random drug and alcohol testing on a yearly basis. If an employee has had a positive drug and/or alcohol test and has not been terminated, the employee will be subject to random testing for a subsequent period of two (2) years from the date of a positive test.

7. **Consequences of a Second Positive Test or Violation**

Upon a second positive test, the employee will be dismissed.

8. **Off-Premise Use of Alcohol, controlled and/or illegal Drugs, or Substances**

The following actions, although not occurring on Township premises, are considered to endanger the Township's reputation for honesty, integrity, and safety:

- a. Indictment or conviction for criminal offenses related to the manufacture, possession, use, sale distribution, dispensation, receipt, or transportation of any controlled substances or illegal drugs; and any other actions involving alcohol, controlled and/or illegal drugs, or lawfully prescribed drugs or substances that, in the opinion of management, endanger the Township's reputation for honesty, integrity, and safety.
- b. Such off-premise actions may occur while an employee is performing Township business on non-working hours and/or on non-Township premises. An employee who becomes the subject of such actions may be subject to disciplinary action, up to and including immediate dismissal.
- c. Any employee who is convicted of a drug or alcohol related criminal offense might be terminated. Employees convicted of illegal distribution or sale of drugs will be immediately terminated.
- d. If not terminated, the employee may be required to undergo periodic random testing, may be required to complete a course of treatment, or may be required to complete a program approved by the Town Manager.
- e. Employees who are indicted for or convicted of controlled substances-related violation under state or federal law or who plead guilty or nolo contendere (i.e., no contest) to such charges, or have adjudication withheld under such charges must inform the Town Manager in writing within five (5) days of such conviction or plea. Failure to do so may be grounds for disciplinary action, up to and including dismissal from employment for the first offense.

D. Counseling and Rehabilitation Programs

- 1. Employees with alcohol and drug dependency or abuse problems are encouraged to voluntarily seek counseling and appropriate referral for treatment.
- 2. Referral, treatment, and rehabilitation costs may be covered through the Kayenta Township group insurance policy, and through other available programs in the area.
- 3. Counseling and rehabilitation services for substance abuse problems are available through the Kayenta Indian Public Health Services, the Navajo Department of Behavior Health Services, and other organizations.

E. Information

- 1. Employees may obtain further information regarding this policy, and referral programs, by contacting the Town Manager.

F. Effective Date

This policy shall become effective February 19, 2010 and shall be amended into the Kayenta Township's Policies and Procedures.

APPENDIX

Drug-Free Workplace Policy Acknowledgement Form

Alcohol/Drug Test Consent Form

Drug Free Workplace Policy – Kayenta Township



Drug- Free Workplace Policy Acknowledgement Form

I have read and received a copy of Kayenta Townships Drug- Free Workplace policy and fully understand my obligations and responsibilities as outlined therein.

Employee

Date

Witness

Date

ALCOHOL/DRUG TEST CONSENT FORM

EMPLOYER: *If applicable, state objective facts giving rise to the belief that the employee is under the influence of alcohol or a controlled substance.*

I, _____ pursuant to a request by my appointing authority or as a condition of employment with the Kayenta Township, Department _____ hereby give my consent to and authorize the Kayenta Township and the testing laboratory designated by the Township to perform analytical tests deemed necessary to determine the absence or the presence of alcohol and/or drugs (Employer: circle all that apply) in my urine, blood, or breath as specified by Drug Free Workplace Policy.

I give my consent to release the results of the test(s) and other related medical information from the laboratory to individuals within the Kayenta Township who, pursuant to the Drug Free Workplace Policy, have a need to know of the alcohol and drug testing results and to the use of all such reports or other medical information by the State in its assessment of my employment application and/or employment status. I understand the results of the test may not be used in any criminal proceeding.

I understand that:

The appointing authority may request proof that I am taking a controlled substance as directed pursuant to a lawful prescription issued in my name. If requested, I must provide such proof within 72 hours.

I have the right to request a re-test of the initial specimen at a licensed laboratory of my choice when I have a positive test for drugs. All requests for a re-test of the sample must be made within ten (10) working days of the receipt of the original positive test result. The results of the sample must be forwarded to me by the appointing authority of the agency.

A positive test for alcohol and/or drugs, or my refusal to authorize the test(s) by signing this form, taking the specified test(s) or producing a specimen, may result in the following action:

Applicants - rejection of my employment application for public safety related positions for one year or until I demonstrate I have successfully completed a substance abuse treatment program.

Employees - disciplinary action up to and including termination in accordance with Drug Free Workplace Policy, and any other applicable policy.

Applicant/Employee Signature

Date

Supervisor's Signature if employee refuses to sign

Date

Witness Signature if employee refuses to sign

Date